

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:10CR18 (7)
	§	
KENNETH DAVID WILLIAMS	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 29, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Ernest Gonazlez.

On April 28, 2011, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 41 months imprisonment followed by a 3-year term of supervised release for the offense Possession of Pseudoephedrine, a List 1 Chemical, with Intent to Manufacture Methamphetamine. Defendant began his term of supervision on May 8, 2013.

On August 23, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 420). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall notify the probation officer ten days prior to any change of residence or employment; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled

substance, or any paraphernalia related to such substances, except as prescribed by a physician; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician; (4) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer; and (5) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as Defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) Defendant was terminated from employment with Posado's Restaurant on or about July 24, 2013, and Defendant failed to notify the U.S. Probation Office; (2) On July 12, 2013, Defendant tested positive for and admitted to illegally using amphetamines, methamphetamine, and MDMA (Ecstasy) while on supervised release. On July 19, 2013, Defendant tested positive for and admitted to smoking marijuana on July 12, 2013; (3) On August 15, 2013, Defendant tested positive for and admitted to illegally using methamphetamine while on supervised release; (4) On August 3, 2013, and on August 6, 2013, Defendant made contact with Tyler Police due to traffic violations and Defendant failed to notify the U.S. Probation Office of such contact; and (5) On August 5, 2013, Defendant failed to report to the U.S. Probation Office for a random urine sample as required by the random urine collection program.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation

of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the October 29, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

SIGNED this 31st day of October, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE